

CONGRESSIONAL RECORD—HOUSE

April 13, 1976

STAT H 3346

I commend this bill to my colleagues' attention.

BAN ON POLYGRAPHS INTRODUCED

The SPEAKER pro tempore. Under a previous order of the House the gentleman from New York (Mr. ABZUG) is recognized for 10 minutes.

Mr. ABZUG. Mr. Speaker, the Government Operations Committee recently released a report, entitled "The Use of Polygraphs and Similar Devices by Federal Agencies," which recommended a complete ban on the use of polygraph and similar "lie detector" devices by the Federal Government. The hearings and investigation upon which the report was based were conducted by the Subcommittee on Government Information and Individual Rights, which I presently chair. The subcommittee found that there is no hard evidence that polygraphs can distinguish deception from truth. Instead, it found that an individual's basic constitutional rights and sense of dignity and privacy are violated by use of these machines.

Polygraphs are still extensively used for a variety of purposes by private industry and by several agencies of Government. These agencies include the Postal Service, Customs Service, Federal Reserve System, Drug Enforcement Administration, FBI, CIA, and a number of components of the Defense Department. It has been estimated that about 200,000 persons are tested yearly in pre-employment and employment situations.

I wrote to the agencies that the report determined are giving polygraph tests and asked each to follow the report's recommendation to discontinue such use. The replies have been disappointing. None of the agencies agreed to observe the committee recommendation. The CIA, for example, responded that the polygraph "is an integral and essential part of security processing to determine the security eligibility of persons for Agency employment and for operational purposes." The new Director of the Central Intelligence Agency, George Bush, in a letter to me dated February 25, 1976, boasts that "during the period 1963 through mid-1974, of those applicants for employment rejected on security grounds, over 60 percent were rejected on the basis of information developed principally or solely during polygraph interviews."

Rather than limiting testing, it has been reported that the CIA is resuming use of polygraphs for periodic testing of its employees. The privately published newsletter, Privacy Journal, says in its March 1976, issue:

The first result of leaks from Congressional committees investigating intelligence practices was for the Central Intelligence Agency to notify all employees of the resumption of periodic polygraph tests. The word circulated around CIA headquarters was that the agency's examiners were previously occupied on Vietnam-related work. CIA says an employee is expected to get plugged in every five years, although no objection is raised if he refuses. Results are not shared with the employee. CIA now uses a computer to categorize stress measures on the various individual polygraph charts.

Mr. Speaker, virtually every expert is convinced that the polygraph is unreliable to distinguish truth from falsehood. The Government Operations Committee agrees with that conclusion. So does the Department of Justice, which consistently opposes the admission of polygraph evidence at trials. Yet the CIA continues to reject applicants based on polygraph evidence.

I submit this is grossly unfair to the individuals so rejected who have to bear the burden for the rest of their lives of having been denied employment by CIA for security reasons. It is also unfair to use this machine to retest employees when there is no reason to suspect them. I also wonder whether an employee is not open to suspicion if he or she refuses to get "plugged in" every 5 years. It might well be the case that the people rejected by CIA or who refuse to be retested are merely nervous of the machine and its operators, and are not security risks.

After release of the report on polygraphs, I received several heart-rending letters from people who feel they were abused by its use. I submit these letters for the RECORD at the conclusion of my remarks. I have omitted the names of the people who wrote to me out of concern for their protection, but my colleagues are welcome to see these letters in the committee office.

Reading these letters, I am reminded of Richard Nixon's remark on a White House tape:

I don't know anything about polygraphs, and I don't know how accurate they are, but I know they'll scare the hell out of people.

I might add that the machines are totally ineffective in the case of pathological liars or those who are trained to deceive, so that instead of screening out true risks, the polygraph will often just screen out the sensitive person.

Mr. Speaker, I also submit for the record copies of the letters I have received from the Departments of Treasury and Defense, the CIA, the Postal Service, and the Federal Reserve System. I have received no substantive reply or acknowledgement from the Justice Department. The reply of the Defense Department to my request is typical. If I cut through the Department's profusion of words correctly, it is also not changing its policy on the use of these machines.

The report of the Government Operations Committee addressed itself to use of so-called lie detector devices by the Federal Government. However, the use of these machines in private industry is far more extensive and the repercussions in terms of civil liberties is severe. Often prospective employees are not informed of the polygraph requirement on the application. They are simply told to appear at an address to take a test. The findings of the polygraph tester are generally accepted unquestioningly by the employer, especially when low paid service employees are concerned. While the standards for polygraph examiners have improved, in some States anyone who buys a polygraph machine can go into business.

There is also the matter of the actual and potential invasions of privacy involved—the probing for details of the

attempts at obtaining information in employment situations, one of the last being Senator Ervin's bill, S. 1688, which passed the Senate March 7, 1974.

But, Mr. Speaker, no bill has passed both Houses, and since persuasion, entreaty, and evidence do not seem to have affected most public and private employers using polygraphs, I am submitting a bill to prevent the use of polygraph testing in connection with Federal and private employment.

The letters I received from private citizens and from several Federal agencies follow, as does the text of the bill I have introduced:

LETTERS RECEIVED FROM PRIVATE CITIZENS

FEBRUARY 2, 1976.

DEAR REPRESENTATIVE ABZUG: I am an honest person, but because of a nervous condition, a "lie detector" test cost me a job. Please ban the polygraph!

Sincerely,

FEBRUARY 10, 1976.

DEAR Mr. ABZUG: Having read recently in the paper . . . the article stating that you are proposing to disban lie detector tests on the Federal, State, and Local levels, I was inspired to write this letter. If there is any information you can send me in regards to this bill or proposal I would very much appreciate it.

I am writing this to support you one-hundred percent in this effort. Last year in Feb. or March, I was discriminated by a polygraph test given by the police department. . . . (I'm sure you have received many such letters carrying examples of discrimination). . . . I was in the process of completing my Master of Science Degree in Counseling and had applied to the police to be a police woman. . . . I passed all the necessary IQ and personality tests and the last step to be taken before going before the police commission board was to take the lie detector tests . . . without going into any of the details there were I believe 2 or 3 questions re: personal lifestyle, and because I did answer these truthfully I was axed from this job possibility.

Now, I felt that not only were the questions themselves discriminating, but the manner in which the test was given was too. The person giving me the test stated that "We don't hire liars, and the test is hooked up to your nervous system" . . .

I am a member of N.W.G.P.A. and one of my very good friends is a charter member (there's very few of them) of the National Gay Task Force . . .

Anyway, I feel that because of this test, I am now being forced to work in a secretarial-bookkeeper position (Not at all in my interests). I firmly believe that if a person is not allowed to be or become all that he or she is, (especially when the truth is told), there is a flat case of discrimination. I have never taken this issue further (suits or the like) as I would be ruined in this town.

Thank you for the opportunity of being able to vent my thoughts and emotions on